

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

HERU SPENCER,

Plaintiff,

v.

OPINION AND ORDER

22-cv-257-wmc

THE CHURCH OF PRISMATIC
LIGHT, TIFFANY WAIT,
KATRINA ROSE WOLFF, JERI
CLARK, and IDA HAMILTON,

Defendants.

Pro se plaintiff Heru Spencer contends that defendants are infringing on his intellectual property rights in the name “The Church of Prismatic Light” and he is proceeding against them under the Lanham Act and Wisconsin common law. Defendants Wait and the Church of Prismatic Light have answered. (Dkt. #24.) In an October 24, 2022, order, the court granted in part Spencer’s request for injunctive relief. (Dkt. #32.) The court also allowed Spencer until November 3, 2022, to provide address information for unserved defendants Wolff, Clark, and Hamilton, or the court would dismiss these defendants. (*Id.*) Spencer has filed three motions in response (dkt. ##34, 35, 36), which the court will deny and set this case for a telephonic preliminary pretrial conference.

To begin, Spencer asks for more time to obtain addresses for the unserved defendants and to add a copyright claim to this lawsuit against defendant Wait. (Dkt. #34.) The court will deny the motion. If Spencer wants to add a claim to this lawsuit, the court has already explained that he will need to seek leave to amend his complaint and submit a proposed amended complaint that includes *all* of his allegations in that one

document, which would replace the original. (Dkt. #13 at 4.) The court would then screen that proposed amended pleading and determine what claims could proceed further.

As for the unserved defendants, the complaint was filed, and summons issued in May 2022, and the United States Marshal Service has made two attempts to serve Wolff, Clark, and Hamilton on Spencer's behalf. Spencer states that he does not have any more information about their addresses and cannot hire a lawyer or an investigator to help him obtain this information. Rather than extend the service deadline without any prospect of effective service and further delay this case, the court will dismiss the unserved defendants without prejudice to Spencer renewing his claims against them at some future time if they are able to be served. *See* Fed. R. Civ. P. 4(m) ("If a defendant is not served within 90 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time.").

Spencer's remaining two filings appear to be duplicate requests to subpoena video evidence from nonparties. (Dkt. ##35, 36.) The court will also deny these requests. Discovery has not yet begun in this case. The next step now that the service and injunctive relief issues have been resolved is for the court to set a telephonic preliminary pretrial conference with the parties. At that conference, the magistrate judge will set the case schedule and explain how to use the discovery process to gather documents and information. Once discovery begins, Spencer will submit requests directly to defense counsel rather than file them with the court, and defense counsel will have 30 days to respond. *See* Fed. R. Civ. P. 33, 34, 36.

ORDER

IT IS ORDERED that:

- 1) Plaintiff Heru Spencer's motion for an extension of time (dkt. #34) is DENIED.
- 2) Plaintiff's motions for a subpoena (dks. ##35, 36) are DENIED.
- 3) Defendants Katrina Rose Wolff, Jeri Clark, and Ida Hamilton are DISMISSED from this lawsuit without prejudice.
- 4) The clerk of court is directed to set this case for a telephonic preliminary pretrial conference with Magistrate Judge Crocker.

Entered this 15th day of November, 2022.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge